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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,608	02/04/2002	Richard Chi	020186	5917

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

TRAN, CONGVAN

ART UNIT PAPER NUMBER

2683

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,608

Applicant(s)

CHI ET AL.

Examiner

CongVan Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed Oct 26, 2004 have been fully considered but they are not persuasive.

In response to claims 1, 14-15, 19-21, 22-25, and 27-31, applicant's argument that the Chen's reference fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., calculating, detecting, modifying). Examiner respectfully disagrees, the calculating a target power level such as SIR has been disclosed in Chen's reference see fig.4, step 106, the mobile station receives the signal and computes the SIR of the received signal (see fig.3, element 62 and fig.4, step 106, col.7 lines 61-65); detecting (as comparing) wind-up of target power level (see fig.3, element 64, fig.4 step 108, col.9, lines 21-29 and its description); and modifying (generating power command) the target power level when wind-up detected (see fig.3, element 66, fig.4 step 110-114, col.9, lines 29-34 and its description).

With respect to claim 2, Chen further discloses target power level is SIR (see col.7 lines 61-65).

With respect to claims 3-4, Chen further discloses the comparing the target power level with a function of a measured power level (see fig.3, comparator 64, 70 and its description).

With respect to claims 5, 11-12, 16, 22, Chen further discloses wherein detecting wind-up comprises measuring an error rate over a predetermined period and comparing

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the error rate with an error rate threshold (see fig.3, element 68-70, col.3, lines 27-40 and its description).

With respect to claim 26, since Chen's wireless device is mobile station 7 (see fig.3, element 7 and its description), thus it is inherent that the technique using in mobile can be used in base station).

With reasons set forth above, therefore the previous office action remain the same.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (6,373,823).

Regarding claims 1, 14-15, 19-21, 22-25, and 27-31, Chen discloses an apparatus and method for controlling transmission power comprising: calculating a target power level (see abstract, fig.3, element 62, fig.4, step 106, and its description); detecting wind-up of the target power level (see abstract, fig.3, elements 64, 68, 70, fig.4, fig.4, step 108, and its description); and modifying the target power level when

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wind-up is detected (see abstract, fig.3, elements 66, fig.4, fig.4, steps 110-114, and its description).

Regarding claim 2, Chen further discloses wherein the target power level is the
Regarding claims 3-4, Chen further discloses signal-to-interference ratio (SIR) (see fig.3, element 62 and its description).

Regarding claims 3-4, Chen further discloses the comparing the target power level with a function of a measured power level (see fig.3, element 64 and its description).

Regarding claims 5, 11-12, 16, 22, Chen further discloses wherein detecting wind-up comprises measuring an error rate over a predetermined period and comparing the error rate with an error rate threshold (see fig.3, element 68-70, col.3, lines 27-40 and its description).

Regarding claims 6, 17, Chen further discloses wherein detecting wind-up comprises measuring closed-loop power control commands generated in response to the target power level over a pre-determined time interval and comparing the number of increase commands with a pre-determined threshold (see fig.3, element 62 and its description).

Regarding claims 7-8, 18, Chen further discloses wherein detecting wind-up comprises measuring the downlink traffic to pilot ratio (see col.5, lines 41-50).

Regarding claims 9-10, 13, Chen further discloses 1, wherein modifying the target power level comprises setting the target power level to a pre-determined level (see fig.3, element 68-70 and its description).

Regarding claim 26, it is inherent that the technique has been disclosed by Chen can be used in either mobile station or base station.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CongVan Tran whose telephone number is 571-272-7871. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CONGVAN TRAN
PRIMARY EXAMINER

CongVan Tran
Primary Examiner
Art Unit 2683

March 30, 2005